

PATENT
Docket No.: 19603/10303 (CRF D-1043A)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

MAR 15 2004

Applicants : Gonsalves et al.
Serial No. : 09/426,783
Filed : October 22, 1999
For : TOSPOVIRUS RESISTANCE IN PLANTS

)
Examiner:
A. Mehta
Art Unit:
1638

OFFICIAL

**TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Mail Stop:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Petitioner, Cornell Research Foundation, Inc., is the owner of 100 percent interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 6,329,568. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321,

R755434.1

has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The assignee of the entire right, title and interest of the above-identified application, hereby confirms that an assignment for the subject application was recorded on September 25, 1995, at Reel 7645/Frame 0369 in the U.S. Patent and Trademark Office.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

For submission on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

Please charge the \$110 terminal disclaimer fee under 37 CFR § 1.20(d) and any additional fees or credit any overpayment to Deposit Account No. 14-1138.

Respectfully submitted,

Date: March 15, 2004



Edwin V. Merkel
Registration No. 40,087

NIXON PEABODY LLP
Clinton Square, P.O. Box 31051
Rochester, New York 14603-1051
Telephone: (585) 263-1128
Facsimile: (585) 263-1600

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop _____, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

March 15, 2004
Date



Wendy L. Barry